

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

United States District Court
Southern District of Texas
FILED

SEP 17 2003

LUIS ALEJANDRO GARZA

*

Michael N. Milby
Clerk of Court

*

VS.

*

CIVIL ACTION NO. B-02-154

*

FEDERAL TORT CLAIMS ACT

THE UNITED STATES OF
AMERICA

*

*

**PLAINTIFF'S UNOPPOSED MOTION FOR EXTENSION OF TIME
TO FILE RESPONSE TO DEFENDANT'S MOTION TO DISMISS
AND ALTERNATIVELY MOTION FOR SUMMARY JUDGMENT**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Plaintiff, Luis Alejandro Garza and moves this court to extend the time for him to file his response to Defendant's motion to dismiss and alternatively motion for summary judgment and in support thereof would respectfully show as follows:

1.

The Defendant filed its motion to dismiss and alternatively motion for summary judgment on September 5, 2003. Under the local rules, Plaintiff's response would be due 20 days later or September 25, 2003.

2.

Plaintiff is being delayed in preparing a response due to the government difficulty in producing documents prepared by the Federal Bureau of Investigation pertaining to its investigation of the assault of Plaintiff by several inmates.

3.

As additional grounds, Plaintiff's attorney has prepared a proposed affidavit for Plaintiff to sign to be included with Plaintiff's response. The proposed affidavit has been mailed to Plaintiff in prison at Pollock, Louisiana. Plaintiff must review it, make any necessary alterations, obtain a notary public's service and mail same back to his attorney. This is a slow process.

4.

Plaintiff requests an additional 20 days to respond to said motion.

5.

Wherefore Plaintiff prays that he be granted an extension of time to file a response to Defendant's motion to dismiss and alternatively motion for summary judgment.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Barry R. Benton", is written over a horizontal line.

Barry R. Benton
284 Ebony Ave.
Brownsville, Texas 78520
Telephone (956) 546-9900
Facsimile (956) 546-9997
Federal I.D. No. 3968
ATTORNEY IN CHARGE FOR
LUIS ALEJANDRO GARZA

CERTIFICATE OF CONFERENCE

I, Barry R. Benton, attorney for Plaintiff, have conferred with Defendant's counsel, the Honorable Nancy L. Masso, Assistant United States Attorney, and she has indicated that she is unopposed to this motion.


Barry R. Benton

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 17th day of September, 2003, the foregoing Plaintiff's Unopposed Motion for Extension of Time to File Response to Defendant's Motion to Dismiss and Alternative Motion for Summary Judgment was hand-delivered to counsel of record, to wit:

Ms. Nancy L. Masso
Assistant U.S. Attorney
600 E. Harrison St., No. 201
Brownsville, Texas 78522

Hand Delivery


BARRY R. BENTON